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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/566,892

02/01/2006

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

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EXAMINER

VU, PHY ANH TRAN

ART UNIT

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4148

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/566,892	<b>Applicant(s)</b> FOSTER ET AL.	
	<b>Examiner</b> PHY ANH VU	<b>Art Unit</b> 4148	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 000000 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 February 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/15/2007</u> .  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

1. The instant application having Application No. 10/566,892 filed on 2/1/2006 is presented for examination by the examiner.

**Oath/Declaration**

2. The applicant's oath/declaration has been reviewed by the examiner and is found to conform to the requirements prescribed in **37 C.F.R. 1.63**.

**Information Disclosure Statement**

1. The information disclosure statement (IDS) submitted on 10/15/2007. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

**Specification**

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The

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disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because the use of the trademark JAVA™ was not capitalized. Correction is required. See MPEP § 608.01(b).

4. The use of trademark JAVA™ on page 6, line 1 of the specification has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology. Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which adversely affect their validity as trademarks. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. **Claim 14** is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter although mentioned in the specification, but was not described in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The phrase "the digital broadcasting system does not use a conditional access (CA) system" is not described in the specification and is not clear as to what the applicant is trying to convey. For the

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purpose of the execution of the application, the examiner will interpret "Conditional Access" as paying a monthly subscription fee to the subscriber.

### **Double Patenting**

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Omum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321 (c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Instant Application	Copending Application 10/556,761
<p>(claim 1)</p> <p>Application of Control Number 10/566,892          application at a terminal in a digital          Art Unit: 4148          broadcasting system, the terminal having          access to an interaction channel which can          carry signalling to an external party, the          method comprising the steps of :</p> <p><u>Receiving details about an encrypted          application.</u></p> <p>Authorizing the terminal to access the          application by sending an authorization request          over the <u>interaction channel</u> to an authorizing          entity.</p> <p>Receiving a key over the interaction channel in          response to being authorized ;</p> <p>Receiving the encrypted application.</p> <p><u>Decrypting the encrypted application using the          received key.</u></p>	<p>Page 5</p> <p>(claim 2)          A method according to claim 1 wherein the          main application is an encrypted application.</p> <p>(claim 4)          A method according to claim 3 further          comprising the step of contacting an external          party to obtain authorization before decrypting          the main application.</p> <p>(claim 5)          A method according to claim 4 futher          comprising receiving a decryption key from the          external party in response to the user being          authorized.</p> <p>(claim 2)          A method according to claim 1 wherein the          main application is an encrypted application.</p> <p>(claim 15)          A method according to claim 1 wherein the          main application is an encrypted application.</p>
<p>(claim 2)</p> <p>A method according to claim 1 wherein the          step of receiving details about the application          comprises receiving a launcher application          which is arranged to authorize the terminal.</p>	<p>(claim 17)</p> <p>A method according to claim 16, wherein the          launcher application is arranged contact an          external party to obtain authorization before          decrypting the main application.</p>
<p>(claim 3)</p> <p>A method according to claim1 wherein the step          of receiving details about the application          comprises receiving a launcher application          which is arranged to decrypt the application.</p>	<p>(claim 3)</p> <p>A method according to claim 2 wherein the          launcher application is arranged to decrypt the          main application as it is loaded via the server.</p>

Claims 1, 2, 3, and 21 are compared to claims 2, 3, 4, 5, 16, 17, and 27 of application 10/556,761 in the above table.

6. **Claims 1, 2, 3, and 21** are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2, 3, 4, 5, 16, 17, and 27 of copending Application No. 10/556,761, and further in view of Wasilewski et al (hereinafter Wasilewski).

The underlined limitations as shown above are not specifically disclosed in the co-pending application 10/566,761. However Wasilewski discloses receiving details about an encrypted application (*Col 4, lines 30-35, 41-45; wherein the details include encrypted program information, and information needed to decrypt the encrypted program*).

Interaction channel (*Col 4, lines 42-44; Col 7, lines 30-33, transmission medium, such as wire, coaxial cable, or fiber optic cable is used to carry messages from Digital Broadband Delivery System*)

Decrypting the encrypted application using the received key (*Col 4, lines 46-62; Col 9, lines 48-55, control word received is used as key to decrypt the encrypted application*).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Wasilewski with the copending

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application (10/556761) because it would provide for enabling the set top box to indicate what program the subscriber is entitled to watch (*Col 4, lines 55-58*).

Initially, it should be noted that the present application and Application No. 10/556,761, have the same inventive entities. The assignee for both applications is KONINKLIJKE PHILIPS ELECTRONICS, N.V.

Claimed subject matter in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as noted below. *See In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir.1993).*

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See MPEP § 804.

### ***Claim Rejections - 35 USC § 101***

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claims 17, 20, and 21** are rejected under 35 U.S.C. 101 because the claimed inventions are directed to non-statutory subject matter for the following reasons: The claims fail to place the invention squarely within one statutory class of invention.



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7. Claims 17, 20 are rejected under 35 U.S.C. 101 as directed to non-statutory subject matter of software, *per se*. The claim lacks the necessary physical articles or objects to constitute a machine or manufacture within the meaning of 35 U.S.C. 101. It is clearly not a series of steps or acts to be a process nor is it a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. It is at best, function descriptive material *per se*.

Descriptive material can be characterized as either “functional descriptive material” or “nonfunctional descriptive material.” Both types of “descriptive material” are non-statutory when claimed as descriptive material *per se*, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994).

In this case, applicant has claimed “software” for controlling operation of a terminal; this clearly shows that applicant is claiming software, *per se*, lacking the hardware necessary to realize any of the underlying functionality. Therefore, claims 17 and 20 are directed to non-statutory subject matter as computer programs, *per se*, i.e. the descriptions or expressions of the programs, are not physical “things.” They are neither computer components nor statutory processes, as they are not “acts” being performed. Such claimed “software” do not define any structural and functional

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interrelationships between the computer program and other claimed elements of a computer, which permit the computer program's functionality to be realized.

**Claim 21** is rejected under 35 U.S.C. 101 because the claimed invention is a "signal" for transmission in a digital broadcasting system, which is directed to non-statutory subject matter.

The claim fails to place the invention squarely within one statutory class of invention. As such, the claim is drawn to a form of energy. Energy is not one of the four categories of invention and therefore this claim(s) is/are not statutory. Energy is not a series of steps or acts and thus is not a process. Energy is not a physical article or object and as such is not a machine or manufacture. Energy is not a combination of substances and therefore not a composition of matter.

### **Examiner Notes**

8. Examiner cites particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-5, 7-14, 16-22** are rejected under 35 U.S.C. 102(b) as being anticipated by **Wasilewski et al (US 6,157,719, hereinafter Wasilewski)**.

**Regarding claim 1**, Wasilewski discloses a method of receiving an encrypted application at a terminal (*Col 4, lines 41-45, application is received at set top box or Digital Home Communication Terminal (DHCT) (Col 7, lines 35-36)*) in a digital broadcasting system (*Fig. 6, col 14, lines 34-35, Digital Broadband Delivery System (DBDS)*), the terminal having access to an interaction channel which can carry signalling to an external party (*Col 4, lines 42-44; Col 7, lines 30-33, transmission medium, such as wire, coaxial cable, or fiber optic cable is used to carry messages from Digital Broadband Delivery System (Col 14, lines 34-35, corresponds to external party) to the set top box*) the method comprising the steps of:

receiving details about an encrypted application (*Col 4, lines 30-35, 41-45; wherein the details include encrypted program information, and information needed to decrypt the encrypted program*)

authorizing the terminal to access the application by sending an authorization request over the interaction channel to an authorizing entity (*Col 7, lines 2-6, Entitlement Agent (EA) corresponds to authorizing entity,); (Col 9, lines 41-53, wherein the encrypted application's info together with authorization info carried by EMM from the DBDS authorized terminal to access the application). When a user wants to view certain program, such as in the case of pay-per-view event, the user orders the event from the entitlement agent (EA), and the EA corresponds by sending an Entitlement Management Messages (EMM) that contains the necessary authorization information to the user. In doing so, this corresponds to the user sending the request to the authorizing entity to be authorized (Col 30, lines 41-65). The communication between the user and the EA is over a channel (Col 4, lines 42-44; Col 7, lines 30-33 corresponds to the interaction channel)*

receiving a key over the interaction channel in response to being authorized (*Col 9, lines 41-55, wherein after the terminal has been authenticated, the key appends to the ECM from the service origination which has been sent through the transmission medium to the terminal is received and used to decrypt the content);*

receiving the encrypted application (*Col 4, lines 41-49; wherein encrypted application is received at the terminal)*

decrypting the encrypted application using the received key (*Col 4, lines 46-62; Col 9, lines 48-55, control word received is used as key to decrypt the encrypted application).*

**Regarding claim 2**, Wasilewski also discloses the step of receiving details about the application (*Col 4, lines 30-35, 41-45; wherein the details include encrypted program information, and information needed to decrypt the encrypted program*) comprises receiving a launcher application (*Col 5, lines 1-6; corresponds to EMM,*) which is arranged to authorize the terminal (*Col 4, lines 64-67; Col 5, lines 1-6; Col 6, lines 32-33, 39-42, 56-60; wherein EMM contains information to authorize the terminal*).

**Regarding claim 3**, Wasilewski also discloses the step of receiving details about the application (*Col 4, lines 30-35, 41-45; wherein the details include encrypted program information, and information needed to decrypt the encrypted program*) comprises receiving a launcher application (*corresponds to EMM, Col 5, lines 1-6*) which is arranged to decrypt the application (*Col 6, lines 32-33, 39-42, 56-64; Col 9, lines 41-55, wherein, after the terminal has been authenticated by EMM, the authenticated information in EMM is used in combination with the key carried by ECM to decrypt the encrypted application*)

**Regarding claim 4**, Wasilewski also discloses the launcher application (*corresponds to the EMM, Col 5, lines 1-6*) is received via a different delivery channel to the encrypted application (*Col 5, lines 6-9; Col 10, lines 62-64*).

**Regarding claim 5**, Wasilewski also discloses the step of decrypting the application is performed by an application loader (*Col 9, lines 40-55; wherein when the key is used to decrypt the encrypted content to produce original content, it is also loading the application*).

**Regarding claim 7**, Wasilewski also discloses received details include one or more of: an encryption method used to encrypt the application; cost of the application; payment details (*Col 16, lines 11-14; Col 30, lines 58-65; Col 31, lines 27-29; Col 32, lines 63-67, Col 33, lines 1-8; wherein the purchase information which includes the cost of the application is provided to the user*).

**Regarding claim 8**, Wasilewski also discloses the step of collecting payment details from a user of the terminal (*Col 32, lines 63-67; Col 33, lines 1-9; wherein the details include checking the cost of the application to make sure it doesn't exceed the user's limit, then the cost is added to the user's current credit balance*).

**Regarding claim 9**, Wasilewski also discloses the step of collecting payment from a user of the terminal (*Col 33, lines, 7-9; wherein the cost is added to the user's current credit balance*).

**Regarding claim 10**, Wasilewski also discloses the terminal has a public/private key pair and the step of contacting an external party comprises sending the public key to the external party (*Col 11, lines 57-60; Col 5, lines 27-34, wherein, an entity provides its public key to any other entity that wants to communicate with it*).

**Regarding claim 11**, Wasilewski also discloses receiving a decryption key from the external party which has been encrypted using the public key (*Col 5, lines 27-34; Col 6, lines 32-33, 40-42, 60-62; Col 9, lines 40-55; wherein the decryption key is received at the terminal from ECM, which corresponds to external party, that has been encrypted using the terminal's public key*).

**Regarding claim 12**, Wasilewski also discloses a method wherein the public/private key pair uniquely identifies the terminal (Col 11, lines 57-60; *Col 8, lines 39-43, 51-54, wherein private key have to correspond to public key of the terminal in order to decrypt the encrypted information*).

**Regarding claim 13**, Wasilewski also discloses the public key is signed by a manufacturer of the terminal (*Col 11, lines 58-60; wherein keys are installed in the terminal at the time it was manufactured*).

**Regarding claim 14**, Wasilewski discloses a method wherein the digital broadcasting system does not use a conditional access (CA) system. As mentioned in the U.S.C112 first paragraph above, and in the applicant's specification, page 3, paragraph 1, "users can simply pay for whatever application they desire without an ongoing subscription commitment" which examiner interpret this as corresponding to pay-per-view, or Impulse pay-per-view. (*Col. 30, lines 41-67; Col 31, lines 1-10, wherein broadcast events, impulse pay-per-view, and pay-per-view events are available to customers who don't have to subscribe to a monthly basis, but rather, on a per event basis, which corresponds to the broadcasting system that does not use conditional access (CA) as claimed here*).

**Regarding claim 16**, Wasilewski also discloses a control apparatus for a terminal in a digital broadcasting system which is arranged to perform the method according to claim 1 (*which corresponds to set top box, Col 4, lines 44-48, 49-55, 64-66;*

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*Col 6, lines 18-23, 60-64; or Digital Home Communications Terminal (DHCT), Col 7, lines 33-36; Col 8, lines 39-43, 65; Col 9, lines 25-27, 41, 52).*

**Regarding claim 17**, Wasilewski also discloses software for controlling operation of a terminal in the manner according to claim 1 (*Col 10, lines 66-67; Fig. 6, element 625 & 626, col 15, lines 39-41, 53-56; wherein the software is used to execute the functions of the terminal*).

**Regarding claim 18**, Wasilewski also discloses a terminal incorporating the control apparatus according to claim 16 (*which corresponds to set top box, Col 4, lines 44-48, 49-55, 64-66; Col 6, lines 18-23, 60-64; or Digital Home Communications Terminal (DHCT), Col 7, lines 33-36; Col 8, lines 39-43, 65; Col 9, lines 25-27, 41, 52*).

**Regarding claim 19**, Wasilewski also discloses a method of transmitting an application to a terminal (*Col 4, lines 41-49; Col 9, lines 25-26; wherein encrypted program is sent to set top box*) in a digital broadcasting system (*Fig. 6, illustrates the Digital Broadband Delivery System*), the terminal having access to an interaction channel which can carry signalling to an external party (*Col 4, lines 42-44; Col 7, lines 30-33, transmission medium, such as wire, coaxial cable, or fiber optic cable is used to carry messages from Digital Broadband Delivery System (Col 14, lines 34-35, corresponds to external party) to the set top box*), the method comprising the steps of: transmitting details about an encrypted application (*Col 9, lines 25-40; Col 4, lines 27-35, 41-42; wherein the details include encrypted program information, and information needed to decrypt the encrypted program*), including a launcher application



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*(corresponds to EMM, Col 5, lines 1-6) which is arranged to authorize the terminal to access the encrypted application by sending an authorization request over the interaction channel to an authorizing entity (Col 4, lines 64-67; Col 5, lines 1-6; Col 6, lines 32-33, 39-42, 56-60; Col 9, lines 41-53; wherein the encrypted application's info together with authorization info carried by EMM from the DBDS authorized terminal to access the application. When a user wants to view certain program, such as in the case of pay-per-view event, the user orders the event from the entitlement agent (EA), and the EA corresponds by sending an EMM that contains the necessary authentication information to the user. In doing so, this corresponds to the user sending a request to the authorizing entity to be authorized (Col 30, lines 41-65). The communication between the user and the EA is over a channel (corresponds to the interaction channel, Col 4, lines 43-44; Col 7, lines 30-31) ; receive a key over the interaction channel in response to being authorized (Col 6, lines 32-33, 40-42, 60-62; Col 9, lines 40-55; wherein EMM contains information to authorize the terminal); and decrypt the application using the key (Col 5, lines 27-34; Col 6, lines 32-33, 40-42, 60-62; Col 9, lines 40-55; wherein, after the terminal has been authenticated by EMM, the authenticated information in EMM is used in combination with the key carried by ECM to decrypt the encrypted application); and, transmitting the encrypted application (Col 9, lines 25-40; Col 4, lines 27-35, 41-42, wherein encrypted application is sent to set top box).*

**Regarding claim 20**, Wasilewski discloses software for an application for transmission to a terminal in a digital broadcasting system, the terminal having access

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to an interaction channel which can carry signalling to an external party (*Col 4, lines 42-44; Col 7, lines 30-33, transmission medium, such as wire, coaxial cable, or fiber optic cable*), the application comprising a launcher application (*corresponds to EMM, Col 5, lines 1-6*) comprising code (*Col 18, lines 2-6, wherein EMM contains a message authentication code*) which, when executed by a processor in the terminal, causes the processor to perform the steps of: authorizing the terminal to access an encrypted application by sending an authorization request over the interaction channel to an authorizing entity (*Col 4, lines 64-67; Col 5, lines 1-6; Col 6, lines 32-33, 39-42, 56-60; Col 9, lines 41-53; wherein the encrypted application's info together with authorization info carried by EMM from the DBDS authorized terminal to access the application*). When a user wants to view certain program, such as in the case of pay-per-view event, the user orders the event from the entitlement agent (EA), and the EA corresponds by sending an EMM that contains the necessary authentication information to the user. In doing so, this corresponds to the user sending the request to the authorizing entity to be authorized (*Col 30, lines 41-65*). The communication between the user and the EA is over a channel (*corresponds to the interaction channel, Col 4, lines 43-44; Col 7, lines 30-31*), and to receive a key over the interaction channel in response to being authorized (*Col 5, lines 27-34; Col 6, lines 32-33, 40-42, 60-62; Col 9, lines 40-55; wherein EMM contains information to authorize the terminal*) ; and, decrypting the encrypted application using the received key (*Col 6, lines 32-33, 39-42, 56-64; Col 9, lines 41-55, wherein, after the terminal has been authenticated by EMM, the*

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*authenticated information in EMM is used in combination with the key carried by ECM to decrypt the encrypted application).*

**Regarding claim 21**, Wasilewski also discloses a signal for transmission in a digital broadcasting system, the signal embodying software according to claim 20 (*Fig. 6, element 613*).

**Regarding claim 22**, Wasilewski discloses a method of transmitting an encrypted application to a terminal (*Col 4, lines 41-49; Col 9, lines 25-26; wherein encrypted program is sent to set top box*) in a digital broadcasting system (*Fig. 6*) in which a conditional access (CA) system is not in use. (*As mentioned in the U.S.C112 first paragraph above, and in the applicant's specification, page 3, paragraph 1, "users can simply pay for whatever application they desire without an ongoing subscription commitment" which examiner interpret this as corresponding to pay-per-view, or Impulse pay-per-view. (Col. 30, lines 41-67; Col 31, lines 1-10, wherein broadcast events, impulse pay-per-view, and pay-per-view events are available to customers who don't have to subscribe to a monthly basis, but rather, on a per event basis, which corresponds to the broadcasting system that does not use conditional access (CA) as claimed here)*), the method comprising: transmitting unencrypted details about the encrypted application (*Col 42, lines 11-19*); the details including one or more of: an encryption method used to encrypt the application; cost of the application; payment details (*Col 16, lines 11-14; Col 30, lines 58-65; Col 31, lines 27-29; Col 32, lines 63-67, Col 33, lines 1-8; wherein the purchase information which includes the cost of the*

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*application is provided to the user); and, transmitting the encrypted application (Col 4, lines 41-49; Col 9, lines 25-26; wherein encrypted program is sent to set top box).*

***Claim Rejections - 35 USC § 103***

10. **Claim 6, and 15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Wasilewski et al (US 6,157-719, hereinafter Wasilewski) and further in view of Peng et al., "Digital Television Application Manager" 2001 IEEE International Conference on Multimedia and Expo (Hereinafter, Peng ).

**Regarding claim 6**, Wasilewski discloses all the limitations of claim 6, except wherein the application loader is a Java ClassLoader.

However, Peng discloses Java ClassLoader.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the feature of Java ClassLoader as discussed in Peng into the system of Wasilewski, because it would provide for the purpose of loading application classes from different sources and solve name collisions (*Page 688, 4th paragraph*)

**Regarding claim 15**, Wasilewski discloses all the limitations of claim 15, except the digital broadcasting system is the Multimedia Home Platform (MHP).

However, Peng discloses the digital broadcasting system is a Multimedia Home Platform (MHP).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the feature of MHP as discussed in Peng into the system of Wasilewski, because MHP is being used as a common platform for user to transparently access a range of multimedia services (Page 685, 2<sup>nd</sup> paragraph).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHY ANH VU whose telephone number is (571)270-7317. The examiner can normally be reached on Mon-Thr 7:30-5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Pham can be reached on 571-272-3689. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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